

# SMALL BUSINESS RESERVE PROGRAM (SBR)

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# SMALL BUSINESS RESERVE PROGRAM (SBR)

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**What it is!**

**How it works!**

# Agenda

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- Small Business “Reserve”
  - SBR vs. Preference Program
- Prime vs. Subcontracting
  - 22 Participating Agencies
  - Certification: Obtaining it & Losing it
- What is a Small Business?
- Other Considerations
  - Expenditures vs. Award
  - Non-profits

# Small Business Preference

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- ❑ A Small Business Preference program has existed for years
  - Is restricted to procurements conducted by:
    - ❑ **The Departments of Transportation (MDOT) and General Services (DGS)**
    - ❑ **Other agencies under DGS delegation**
  - Involves sealed bidding procurements only
  - Involves a Price Preference of up to 5% of the price of the lowest bidder
  - Does not prevent non-small businesses from bidding.

# SBR Overview

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- 22 State agencies must participate
- Expires 9/30/2007 if not extended by legislature
- 10% of the value of most annual expenditures is to be reserved

# SBR vs. Preference Program

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- ❑ The Reserve Program provides no price preference
- ❑ Instead, it “reserves” participation in a designated procurement to ***Certified*** small businesses
- ❑ Within the Reserve there is competition
  - But it is only among certified small businesses

# “Reserve” Means What it Says

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- Before an award is made businesses must be certified as a small business
- Nothing changes about the procurement process
  - Only limitation is on which businesses can seek the award
  - Everything else about the procurement is done the way it normally would be done

# Prime vs. Subcontracting

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- This program is designed for prime contracting opportunities.



# SBR Procurement Details

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- Does not mean there is no competition
- It means that all the permissible competition is from small businesses
  - We still want lots of competition
  - Competition helps minimize costs
- There is no price limitations in the Reserve program
  - A Small Business Reserve procurement can be as small as a P-Card purchase or worth hundreds of thousands, or even millions of dollars

# 22 Participating Agencies

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## ☐ Departments of:

- Budget & Management
- DBED
- Education
- Environment
- General Services
- Health & Mental Hygiene

## ☐ Departments of:

- Housing & Community Development
- Human Resources
- Juvenile Services
- Labor, Licensing & Regulation
- Natural Resources

# 22 Participating Agencies (cont.)

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- |  |   |
|--|---|
| <input type="checkbox"/> Departments of: | <input type="checkbox"/> Independent Agencies |
| ■ Public Safety & Correctional Services  | ■ Insurance Administration                    |
| ■ Transportation                         | ■ Lottery                                     |
| ■ Port Commission                        | ■ Morgan University                           |
| ■ State Police                           | ■ Stadium Authority                           |
|  | ■ State Retirement                            |
|  | ■ State Treasurer                             |
|  | ■ University System of Md.                    |

# 22 In: All Others Out

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- Agencies not named cannot participate
  - Must follow normal procurement regulations
  - Normal regulations don't permit this restriction on competition

# What does Certification Involve?

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- Small businesses can become certified through the DGS website
  - Visit [www.dgs.state.md.us](http://www.dgs.state.md.us) & click on the Small Business Reserve button
  - Self-certification based on the “honor system
  - Must legally affirm that information provided is accurate

# More on Certification

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- ❑ Certification lasts for 1 year
- ❑ Must re-certify by anniversary date
- ❑ Must report any change in ownership
- ❑ Eligibility checked prior to contract award:
  - If certification not valid, no award
  - Other sanctions may result

# Providing False Information

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- If it is determined that a business knowingly provided false information when self-certifying, the business is subject to:
  - Becoming ineligible for future State business
  - A fine
  - Other sanctions as prescribed by law

# Verification of Small Business Status

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- SBR businesses are subject to periodic eligibility validation via:
  - Random audits by DGS or agency staff
  - Allegations of non-eligibility raised by competitors under a procurement
- Usually results in requests for comprehensive documentation, including tax records



# Loss of Certification

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- ❑ As a business grows under the SBR program, it may at some point exceed the SBR size limits
  - May occur under multi-year contracts
- ❑ Loss of certification during contract term:
  - Does not impact existing contract
  - Impacts future SBR awards

# What is a Small Business under the SBR?

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## ☐ Restrictions:

- Not a broker
- Not dominant in field
- Independently owned & operated
- Not subsidiary of another business

## ☐ Segmented into:

- Construction;
- Manufacturing;
- Retail
- Services; or
- Wholesale;

# What is a Small Business? (cont.)

| BUSINESS CATEGORY | MAX. 3 YEARS AVG. SALES | MAX. AVERAGE # EMPLOYEES |
|-------------------|-------------------------|--------------------------|
| Construction      | \$7 Million             | 50                       |
| Manufacturing     | \$2 Million             | 100                      |
| Service           | \$2 Million             | 100                      |
| Wholesale         | \$2 Million             | 50                       |
| Retail            | \$2 Million             | 25                       |

Robert L. Ehrlich, Jr., Governor and Michael S. Steele, Lieutenant Governor



# What is the Requirement?

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- At least 10% of the annual procurement **expenditures** of each of the 22 named agencies is to be awarded to small businesses
  - With the exception of the University System and Maryland Stadium Authority, Non-Title 21 Procurements Excluded
  - Preferred Provider
  - Federal Fund exclusion

# What is Excluded?

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## ☐ Exclusions in Law:

- Preference expenditures. expenditures from:
  - ☐ State Use Industries (exempt as interagency agreement)
  - ☐ Blind Industries & Services of Maryland
  - ☐ Sheltered Workshops
- When such a reserve conflicts with Federal funding requirements

# Other considerations

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## ☐ Practical Exclusion:

- Payments for expenditures under another agency's contract
- ☐ DGS Statewide contracts, except construction, are to be counted by using agency
- ☐ DBM Master contracts are to be counted by using agency

# Expenditure vs. Award

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- 10% Requirement is on actual expenditures
  - Anticipated awards don't count
- "Expenditure" includes payments made under prior year contracts
  - All payments under all open contracts
  - There are challenges with multi-year contracts

# What about Non-profits?

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- ❑ Non-profit organizations are not independently owned
  - No one owns a non-profit organization
- ❑ Non-profit entities can't be counted as a small business
  - Doesn't matter if otherwise meets employment and sales value limits
- ❑ Expenditures from non-profits are still included as part of the agency's total procurement expenditures
  - Must meet the 10% expenditure requirement



# Failure is not an option.

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- ❑ There is no provision for waivers or non-accomplishment
- ❑ It isn't an average of the expenditures of all 22 agencies
  - Agencies which might exceed the 10% requirement can't substitute for agencies that don't meet the Requirement
  - Each agency must meet the Requirement on its own



# CHALLENGE THE STATUS QUO



*Robert L. Ehrlich, Jr., Governor*  
*Michael S. Steele, Lt. Governor*

